

For Immediate Release:

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Statement from Mayor Reed regarding the Employee Unions' Legal Challenge to Voter-Approved Pension Reforms

San Jose, Calif. – Mayor Reed has released the following statement in response to the legal challenge filed by the City of San Jose's employee unions against Measure B (the pension reform ballot measure), which was approved by the voters with 69.58% of the vote.

Statement from Mayor Reed:

Measure B was carefully crafted to follow California law.

San Jose is a charter city and the California Constitution gives charter cities "*plenary authority*" to provide in their charters for the compensation of their employees.ⁱ

San Jose's City Charter reserves the right of the City Council and the voters to make changes to employees' retirement benefits:

*"... the Council may at any time, or from time to time, amend or otherwise change any retirement plan or plans or adopt or establish a new or different plan or plans for all or any officers or employees."*ⁱⁱ

San Jose's Municipal Code allows the City to require employees to pay more for retirement benefits. In fact, two years ago, a number of city employee unions agreed that the city could make employees pay more for retirement benefits.ⁱⁱⁱ

In addition, more than 200 other California cities have required employees to pay for a larger share of their retirement costs.^{iv}

The courts have upheld the rights of local government to determine compensation, and according to the 9th Circuit Court of Appeals, "*it is well established that public employees have no vested rights to particular levels of compensation and salaries may be modified or reduced by the proper statutory authority.*"^v

The City has filed an action in federal court asking for declaratory relief in order to receive a prompt ruling on any potential legal issues and minimize the cost of legal disputes.

A public legal opinion prepared by the City's outside counsel is available at:

<http://www.sanjoseca.gov/DocumentCenter/View/3966>

ⁱ California Constitution, Article 11, Local Government, section 5 (b)(4): http://www.leginfo.ca.gov/.const/article_11

ⁱⁱ San Jose City Charter, Section 1500: <http://www.sanjoseca.gov/DocumentCenter/Home/View/110>

ⁱⁱⁱ San Jose Municipal Code Sections 3.28.755 and 3.36.1525 states: "*members of this system shall make such additional retirement contributions as may be required by resolution adopted by the city council or by agreement with a recognized bargaining unit.*" In 2010, six employee unions reached agreements with the City of San Jose for employees to make additional contributions to the pension systems to cover the plan's unfunded liabilities. Memos outlining these agreements are listed here:

http://www.sanjoseca.gov/clerk/Agenda/20100622/20100622_0311sup.pdf

http://www.sanjoseca.gov/clerk/Agenda/20100622/20100622_0312sup.pdf

http://www.sanjoseca.gov/clerk/Agenda/20100622/20100622_0313sup.pdf

http://www.sanjoseca.gov/clerk/Agenda/20100622/20100622_0314sup.pdf

http://www.sanjoseca.gov/clerk/Agenda/20100622/20100622_0315sup.pdf

http://www.sanjoseca.gov/clerk/Agenda/20100803/20100803_0304.pdf

^{iv} League of California Cities, 2012 Pension Sustainability Survey: <http://dev.cacities.org/getattachment/179aea97-1cd1-46b6-a49e-1ecad136caee/2012CityManagerPensionSurvey.pdf.aspx>

^v *San Diego POA v. San Diego City Employees Retirement System*, 568 F.3d 725, 738 (U.S. 9th Circuit Court of Appeals, 2009)

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Note: the hyperlinks in this press release were updated on Nov. 7, 2012 to direct readers to the new City of San Jose website. No other changes were made to the content of this document.